

Message Text

LIMITED OFFICIAL USE

PAGE 01 PARIS 18498 01 OF 04 100619Z
ACTION EUR-12

INFO OCT-01 ISO-00 AID-05 CEA-01 CIAE-00 COME-00 EB-08
EA-10 FRB-03 INR-10 IO-13 NEA-11 NSAE-00 ICA-11
OPIC-03 SP-02 TRSE-00 LAB-04 SIL-01 AGRE-00
OMB-01 SS-15 /111 W
-----017787 100815Z /12

R 091906Z JUN 78
FM AMEMBASSY PARIS
TO SECSTATE WASHDC 2998
INFO USMISSION USUN

LIMITED OFFICIAL USE SECTION 01 OF 04 PARIS 18498

USOECD

E.O. 11652: N/A
TAGS: EINV, OECD
SUBJECT: MEETING OF COMMITTEE ON INTERNATIONAL INVEST-
MENT AND MULTINATIONAL ENTERPRISES (CIME) WORKING GROUP
ON NATIONAL TREATMENT, JUNE 6-7

REF: IME(78)2

1. SUMMARY: FIRST SESSION OF CIME WORKING GROUP ON
NATIONAL TREATMENT MADE SURPRISINGLY GOOD START IN DEAL-
ING WITH ISSUES RELATING TO THE NATIONAL TREATMENT DECISION OF OECD INVESTMENT PACKAGE. GROUP, AGREED THAT INITIAL WORK SHOULD FOCUS ON INCREASING TRANSPARENCY OF MEMBER COUNTRY PRACTICES IN THIS AREA AND ON GETTING REACTION FROM FIRMS IN OECD COUNTRIES TO THESE PRACTICES. GROUP CLEANED UP IME(78)2, RECOMMENDED ITS DERESTRICTION AND EVENTUAL MEMBER COUNTRY CIRCULATION TO NON-GOVERNMENT SECTORS ALONG WITH ANNEX INCLUDING INDIVIDUAL MEMBER COUNTRY SUBMISSIONS ON EXCEPTIONS TO NATIONAL TREATMENT. CANADIAN OPPOSITION TO REFERENCE TO NATIONALITY REQUIRE-
LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 02 PARIS 18498 01 OF 04 100619Z

MENTS AS EXCEPTIONS TO NATIONAL TREATMENT COMPLICATED PROCESS. SECRETARIAT WILL CIRCULATE FINAL DRAFT FOR APPROVAL AT JULY CIME MEETING. GROUP DISCUSSED IN DETAIL IME(78)2 CHAPTER ON NEW INVESTMENT BY ESTABLISHED FOREIGN-CONTROLLED ENTERPRISES. IN THIS CONTEXT, U.S. DEL RAISED SPECIFIC SITUATIONS INVOLVING POSSIBLE ADDITIONAL EXCEPTIONS TO NATIONAL TREATMENT IN MEMBER COUNTRIES. ALSO

THERE WAS A BRIEF DISCUSSION OF ADMINISTRATIVE PRACTICES.
GROUP AGREED TO MEET AGAIN SEPTEMBER 26-27. END SUMMARY

2. WORK OF GROUP: DUTCH CHAIRMAN (GAUTIER) INITIALLY OUTLINED AMBITIOUS WORK PROGRAM INVOLVING THREE PHASES: INCREASED TRANSPARENCY OF MEMBER COUNTRY POLICIES; CLASSIFICATION OF EXCEPTIONS ACCORDING TO THEIR IMPORTANCE TO INTERNATIONAL INVESTMENT FLOWS; AND EXTENSION OF THE NATIONAL TREATMENT PRINCIPLE AND "HOW TO ELIMINATE" EXCEPTIONS. U.S. DEL (KAUZLARICH) NOTED THAT MAJOR U.S. GOAL AT THIS STAGE WAS INCREASED TRANSPARENCY. HE EMPHASIZED NEED FOR PROMPT DERESTRICTION OF REFDOK (WITH MEMBER COUNTRY EXCEPTIONS AS AN ANNEX) AND CIRCULATION TO OECD MEMBER COUNTRY FIRMS. FINALLY, U.S. DEL INDICATED THAT WHILE EXTENSION OF NATIONAL TREATMENT PRINCIPLE OF CONSIDERABLE IMPORTANCE, THIS WAS A LONGER-TERM GOAL THAT MUST AWAIT GROUP WORK ON TRANSPARENCY AND CLASSIFICATION OF EXCEPTIONS.

3. SWEDISH DEL (NIKLASSON) NOTED THAT PREMATURE FOR GROUP AT THIS STAGE OF WORK TO SPEAK OF PROVIDING CIME WITH RECOMMENDATIONS ON EXTENSION OF PRINCIPLE. HE STRONGLY ENDORSED NEED FOR INCREASED TRANSPARENCY AND EVALUATION OF RELATIVE IMPORTANCE OF EXCEPTIONS ON INTERNATIONAL INVESTMENT. ALL OTHER DELEGATIONS SUPPORTED U.S./SWEDISH VIEW ON INITIAL WORK PROGRAM OF LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 03 PARIS 18498 01 OF 04 100619Z

GROUP WHILE RECOGNIZING THAT THIS WOULD BE LONG-TERM PROCESS. GROUP ALSO AGREED THAT ANY WORK IN CONNECTION WITH THE 1979 REVIEW OF THE OECD INVESTMENT PACKAGE MUST AWAIT INSTRUCTIONS FROM FULL CIME.

4. DERESTRICTION OF IME(78)2: THERE WAS GENERAL SUPPORT FOR DERESTRICTION OF REFDOK AND INCLUSION OF ADDITIONAL ANNEX CONTAINING INDIVIDUAL COUNTRY SUBMISSIONS TO SECRETARIAT ON EXCEPTIONS TO NATIONAL TREATMENT. HOWEVER, "CLEAN UP" PROCESS OF IME(78)2 FOR DERESTRICTION PROVED DIFFICULT TASK. ALL DELEGATIONS ACCEPTED NEED TO DELETE REFERENCES TO SPECIFIC CIME TENTATIVE CONCLUSIONS; SECRETARIAT REQUESTS FOR ADDITIONAL INFORMATION FROM MEMBER COUNTRIES AND FOOTNOTES REFERRING TO RESTRICTED OECD DOCUMENTS. CANADIAN DEL SAID IT WAS

LIMITED OFFICIAL USE

NNN

LIMITED OFFICIAL USE

PAGE 01 PARIS 18498 02 OF 04 100801Z
ACTION EUR-12

INFO OCT-01 ISO-00 AID-05 CEA-01 CIAE-00 COME-00 EB-08
EA-10 FRB-03 INR-10 IO-13 NEA-11 NSAE-00 ICA-11
OPIC-03 SP-02 TRSE-00 LAB-04 SIL-01 AGRE-00
OMB-01 SS-15 /111 W
-----018931 100814Z /12

R 091906Z JUN 78
FM AMEMBASSY PARIS
TO SECSTATE WASHDC 2999
INFO USMISSION USUN

LIMITED OFFICIAL USE SECTION 02 OF 04 PARIS 18498

USOECD

IMPORTANT THAT CANADIAN NOTIFICATION ON NATIONALITY REQUIREMENT FOR DIRECTORS OF FOREIGN FIRMS NOT BE INCLUDED IN REFDOC WHERE IT MIGHT BE CONSTRUED AS AN EXCEPTION TO NATIONAL TREATMENT. CANADIAN DEL PRESSED FOR ANOTHER ANNEX LISTING CANADIAN NOTIFICATION SEPARATE FROM PRESENT REFDOC ANNEX ON EXCEPTIONS TO NATIONAL TREATMENT AND SAID, UNLESS THIS WAS DONE, HE WAS UNDER INSTRUCTIONS TO WITHDRAW CANADIAN NOTIFICATION ON NATIONALITY PROVISIONS. DESPITE INFORMAL AUSTRALIAN EFFORTS TO DISSUADE CANADIANS AND STRONG U.S. DEL OBJECTIONS THAT THIS OPENED DOOR TO POSSIBLE SUGGESTIONS FOR OTHER SUBSTANTIVE CHANGES AND REMINDER THAT CANADIAN RESERVATIONS WOULD BE NOTED IN NO FEWER THAN THREE SEPARATE PARTS OF DERESTRICTED IME(78)2, CANADIAN DEL REMAINED ADAMANT. SECRETARIAT WAS INSTRUCTED TO ADD SEPARATE ANNEX ON CANADIAN NOTIFICATION TO DRAFT OF REFDOC TO BE CIRCULATED AT JULY CIME. CANADIAN ACTION FOLLOWED BY STATEMENT BY NORWEGIAN DEL THAT HIS COUNTRY DOES NOT REGARD TREATMENT OF BRANCHES OR SPECIAL BENEFITS FOR STATE-OWNED ENTERPRISES AS EXCEPTIONS TO NATIONAL TREATMENT. IN LIGHT OF DIFFERING
LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 02 PARIS 18498 02 OF 04 100801Z

VIEWS ON APPLICATION OF NATIONAL
TREATMENT, AS WELL AS UNWILLINGNESS OF DELS TO REACH
MORE THAN TENTATIVE CONCLUSIONS AT THIS TIME GIVEN
EARLY STAGE OF EXAMINATION OF NATIONAL TREATMENT ISSUE,

DERESTRICTED DOCUMENT WILL NOTE GAPS IN THE AREA OF ADMINISTRATIVE PRACTICES AND INDICATE ONLY CAVEATED, WEAK CONCLUSION REGARDING THE GENERAL APPLICATION OF THE NATIONAL TREATMENT PRINCIPLE BY MOST MEMBER COUNTRIES. SECRETARIAT PREPARING REVISED DRAFT OF PROPOSED DERESTRICTED VERSION OF REFDOC BASED ON THIS DISCUSSION. TO ENSURE ACCURACY OF NEW ANNEX, SECRETARIAT HAS ASKED MEMBER COUNTRIES TO REVIEW THEIR SUBMISSIONS AND INFORM THE SECRETARIAT OF ANY CHANGES BY JUNE 22.

5. INCREASED TRANSPARENCY: INITIAL EFFORT IN THIS AREA DEALT WITH IME(78)2 CHAPTER ON NEW INVESTMENT BY FOREIGN CONTROLLED ENTERPRISES. U.S. DEL PRESENTATION RE SPECIFIC CIRCUMSTANCES INVOLVING POSSIBLE NEW EXCEPTIONS TO NATIONAL TREATMENT IN THE CASE OF DENMARK, ITALY AND AUSTRIA GENERATED DISCUSSION THAT RESULTED IN: (A) SECRETARIAT AGREEMENT TO DO PAPER CLARIFYING DISTINCTION BETWEEN PRIMARY INVESTMENT AND INVESTMENT AT SECOND-REMOVE; (B) EXCHANGE ON DIFFERENTIAL TREATMENT OF EC AND NON-EC FIRMS IN EC MEMBER COUNTRIES WITH EEC OBSERVER ADMITTING THAT AS A RESULT, EC FIRMS FACED LESS RED TAPE THAN NON-EC FIRMS; (C) SECRETARIAT AND U.S. DEL DOUBTS ON COMPLETENESS OF EXCEPTIONS FILED REGARDING CONTROLS ON INVESTMENT IN BANKING AND OIL SECTORS RESPECTIVELY; (D) ACCEPTANCE OF THE NEED FOR CLARIFICATION OF THE DISTINCTION BETWEEN BRANCHES AND SUBSIDIARIES REGARDING NATIONAL TREATMENT; (E) RECOGNITION THAT STATE-OWNED ENTERPRISES MIGHT POSE PARTICULAR PROBLEM IN CERTAIN AREAS REGARDING NATIONAL TREATMENT. LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 03 PARIS 18498 02 OF 04 100801Z

(ON THIS LATTER POINT, NORWEGIAN DEL ADMITTED THAT WHILE NORWAY'S STATE-OWNED OIL COMPANY WAS A "PREFERRED INSTRUMENT" AND RECEIVED CERTAIN BENEFITS NOT AVAILABLE TO SMALLER PRIVATE NORWEGIAN FIRMS OR FOREIGN-OWNED FIRMS, NORWAY DID NOT REGARD THIS AS AN EXCEPTION TO NATIONAL TREATMENT SINCE NORWAY DOES NOT REGARD STATE-OWNED ENTERPRISES AS COVERED BY NATIONAL TREATMENT DECISION. U.S. DEL STRONGLY OBJECTED TO THIS VIEW.) U.S. DEL RECEIVED NO SUPPORT FOR CONTINUED REPORTING OF THOSE SECTORS WHICH ARE PUBLIC MONOPOLIES SINCE THERE WAS GENERAL BELIEF THAT SUCH SECTORS BY DEFINITION EXCLUDED FOREIGN (AS WELL AS PRIVATE DOMESTIC) FIRMS AND THEREFORE THERE WAS NO NATIONAL TREATMENT ISSUE. U.S. DEL AGREED TO THIS IN INTEREST OF QUICKLY DERESTRICTING REFDOC, BUT INDICATED U.S. CONSIDERED PUBLIC MONOPOLIES IMPORTANT QUESTION TO WHICH IT WOULD RETURN AT LATER DATE.

6. ISSUE OF GENERAL (AS OPPOSED TO SPECIFIC SECTOR)

CONTROLS ON INVESTMENT AT THE SECOND REMOVE RESULTED
IN SIGNIFICANT DISCUSSION. SWISS WITH AUSTRALIAN AND
U.S. SUPPORT PRESSED FOR GREATER TRANSPARENCY RE GENERAL
CONTROLS. DESPITE CHAIRMAN'S SUGGESTION (SUPPORTED BY
FRG) THAT GROUP WAIT FOR SPECIFIC COMPLAINTS BEFORE
APPROACHING MEMBER COUNTRIES APPLYING SUCH CONTROLS FOR

LIMITED OFFICIAL USE

NNN

LIMITED OFFICIAL USE

PAGE 01 PARIS 18498 03 OF 04 100619Z
ACTION EUR-12

INFO OCT-01 ISO-00 AID-05 CEA-01 CIAE-00 COME-00 EB-08
EA-10 FRB-03 INR-10 IO-13 NEA-11 NSAE-00 ICA-11
OPIC-03 SP-02 TRSE-00 LAB-04 SIL-01 AGRE-00
OMB-01 SS-15 /111 W
-----017780 100816Z /12

R 091906Z JUN 78
FM AMEMBASSY PARIS
TO SECSTATE WASHDC 3000
INFO USMISSION USUN

LIMITED OFFICIAL USE SECTION 03 OF 04 PARIS 18498

USOECD

FURTHER DETAILS, GROUP AGREED THAT THE SECRETARIAT
SHOULD DRAW UP QUESTIONNAIRE ON GENERAL CONTROLS BASED
ON PARA. 44 OF REFDOK THAT WOULD BE REVIEWED AT NEXT
WORKING GROUP MEETING. SECRETARIAT ALSO AGREED TO PULL
TOGETHER APPROPRIATE INFORMATION FROM INVISIBLES COMMIT-
TEE SPECIAL SESSIONS ON DIRECT INVESTMENT THAT MIGHT
RELATE TO INVESTMENT AT THE SECOND REMOVE. U.S. AND
SWEDISH DELS EMPHASIZED NEED FOR GREATER TRANSPARENCY
RATHER THAN ESTABLISHMENT OF A SPECIFIC COMPLAINT PRO-
CEDURE REGARDING THE OPERATION OF GENERAL SCREENING
MECHANISMS. DELS RECOGNIZED THAT SPECIFIC QUESTIONS
RAISED BY ACTUAL EXPERIENCE WITH SCREENING MECHANISMS
COULD PLAY AN IMPORTANT ROLE IN FURTHER CLARIFYING
PRACTICES.

7. IN THIS CONNECTION, THE SECRETARIAT OFFERED TO ACT
AS A GUARANTOR OF THE ANONYMITY FOR COUNTRIES WISHING

TO RAISE QUESTIONS OR PRESENT SPECIFIC SITUATIONS NOT ONLY IN THIS AREA, BUT OTHERS RELATING TO EXCEPTIONS TO NATIONAL TREATMENT. THE SECRETARIAT WOULD ACCEPT LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 02 PARIS 18498 03 OF 04 100619Z

SUBMISSIONS FROM MEMBER COUNTRIES AND THEN RAISE THE QUESTION OR SITUATION WITH THE COUNTRY WHOSE PRACTICE IS AT ISSUE WITHOUT REVEALING THE COUNTRY SUBMITTING THE QUESTION OR INFORMATION.

8. THERE WAS GENERAL RECOGNITION THAT ADMINISTRATIVE PRACTICES PLAY A KEY ROLE IN THIS AREA AND THAT GREATER CLARITY WAS ESSENTIAL. HOWEVER, AS UK DEL (DENHAM) NOTED, SUCH PRACTICES CUT ACROSS THE BOARD AND WOULD BE DEALT WITH THROUGHOUT THIS PROCESS.

9. NEXT MEETING: THE WORKING GROUP WILL MEET AGAIN SEPTEMBER 26-27. THE AGENDA WILL INCLUDE: (A) FURTHER WORK ON REMAINING CHAPTERS OF REFDOK AIMED AT INCREASING TRANSPARENCY (ALTHOUGH DERESTRICTION WILL NOT AWAIT THIS FURTHER WORK); (B) REVIEW OF DRAFT SECRETARIAT QUESTIONNAIRE RELATING TO GENERAL SCREENING MECHANISMS; (C) DISCUSSION OF SECRETARIAT PAPER ON NEW INVESTMENT AND INVESTMENT AT SECOND REMOVE; AND (D) RELATIONSHIP BETWEEN WORKING GROUP AND TUAC AND BIAC.

10. COMMENT: AS AN INITIAL DISCUSSION OF THIS ISSUE, MEETING WENT EXTREMELY WELL. DERESTRICTION OF MODIFIED REFDOK WITH ANNEXED COUNTRY SUBMISSIONS ON EXCEPTIONS TO NATIONAL TREATMENT REPRESENT STEP TOWARD INCREASED TRANSPARENCY OF OECD MEMBER COUNTRY'S POLICIES IN THIS AREA. WHILE OTHER DELS CLEARLY LOOKING TO U.S. TO CARRY DISCUSSION AT MEETING, THERE WAS WIDESPREAD DISCUSSION AND PROBING OF EXCEPTIONS TO NATIONAL TREATMENT ON BOTH A FUNCTIONAL AND COUNTRY-BY-COUNTRY BASIS. (SECRETARIAT EVEN JOINED IN RAISING QUESTIONS RE SPECIFIC MEMBER COUNTRY POLICIES WHICH MIGHT CONSTITUTE EXCEPTIONS TO NATIONAL TREATMENT BASED ON EARLIER U.S. SUB-LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 03 PARIS 18498 03 OF 04 100619Z

MISSION ON INCENTIVES/DISINCENTIVES/PERFORMANCE REQUIREMENTS.)

11. AS A RESULT OF U.S. PRESENTATION OF SPECIFIC SITUATIONS AIMED AT INCREASING TRANSPARENCY RATHER THAN

LIMITED OFFICIAL USE

NNN

LIMITED OFFICIAL USE

PAGE 01 PARIS 18498 04 OF 04 100640Z
ACTION EUR-12

INFO OCT-01 ISO-00 AID-05 CEA-01 CIAE-00 COME-00 EB-08
EA-10 FRB-03 INR-10 IO-13 NEA-11 NSAE-00 ICA-11
OPIC-03 SP-02 TRSE-00 LAB-04 SIL-01 AGRE-00
OMB-01 SS-15 /111 W
-----018003 100816Z /12

R 091906Z JUN 78
FM AMEMBASSY PARIS
TO SECSTATE WASHDC 3001
INFO USMISSION USUN

LIMITED OFFICIAL USE SECTION 04 OF 04 PARIS 18498

USOECD

FILING SPECIFIC COMPLAINTS, PRECEDENT APPEARS ESTABLISHED FOR THIS PROCEDURE FOR DEALING WITH UNREPORTED EXCEPTIONS TO NATIONAL TREATMENT AS WELL AS SPECIFIC SITUATIONS. ASSUMING OTHER COUNTRIES WILL TAKE ADVANTAGE OF SECRETARIAT OFFER, SUCH A PROCEDURE WILL HELP INSURE THE FUTURE ANONYMITY OF THE GOVERNMENT (AND THE FIRM) RAISING THE ISSUE.

12. OBVIOUSLY, HOWEVER, PROBLEMS EXIST REGARDING NATIONAL TREATMENT AMONG OECD COUNTRIES -- U.S. DIFFERENCES WITH CANADA AND NORWAY NOTED ABOVE ARE BUT THE MOST VISIBLE EXAMPLES. WHILE REPRESENTED, FRANCE REMAINED SILENT THROUGHOUT THIS MEETING, DESPITE FACT FRENCH PRACTICES CLEARLY MAIN OBJECT OF PRESSURE ON INCREASED TRANSPARENCY REGARDING GENERAL CONTROLS. IT WILL BE INTERESTING TO SEE WHETHER THIS SILENCE CONTINUES WHEN THE NEXT SESSION TAKES UP THE DRAFT QUESTIONNAIRE. FINALLY, THE WEAK LEADERSHIP OF THE WORKING GROUP'S CHAIRMAN, COUPLED WITH HIS TENDENCY TO WANT TO MOVE TOO FAST TOO SOON MAY AFFECT GROUP'S ABILITY TO COME

LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 02 PARIS 18498 04 OF 04 100640Z

TO GRIPS WITH THE DIFFERENCES AMONG OECD COUNTRIES ON
NATIONAL TREATMENT.
SALZMAN

LIMITED OFFICIAL USE

NNN

Message Attributes

Automatic Decaptioning: X
Capture Date: 01 jan 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: MEETING REPORTS, COMMITTEE MEETINGS, FOREIGN INVESTMENTS, MULTINATIONAL CORPORATIONS
Control Number: n/a
Copy: SINGLE
Draft Date: 09 jun 1978
Decaption Date: 01 jan 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 20 Mar 2014
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1978PARIS18498
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Expiration:
Film Number: D780243-0186
Format: TEL
From: PARIS USOECD
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1978/newtext/t19780676/aaaacnjq.tel
Line Count: 391
Litigation Code IDs:
Litigation Codes:
Litigation History:
Locator: TEXT ON-LINE, ON MICROFILM
Message ID: 19d3428c-c288-dd11-92da-001cc4696bcc
Office: ACTION EUR
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 8
Previous Channel Indicators: n/a
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: n/a
Retention: 0
Review Action: RELEASED, APPROVED
Review Content Flags:
Review Date: 05 may 2005
Review Event:
Review Exemptions: n/a
Review Media Identifier:
Review Release Date: N/A
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
SAS ID: 2415626
Secure: OPEN
Status: NATIVE
Subject: MEETING OF COMMITTEE ON INTERNATIONAL INVEST- MENT AND MULTINATIONAL ENTERPRISES (CIME) WORKING GROUP ON NATIONAL TREATMENT, JUNE 6-7
TAGS: EINV, FR, OECD
To: STATE
Type: TE
vdkgvkey: odbc://SAS/SAS.dbo.SAS_Docs/19d3428c-c288-dd11-92da-001cc4696bcc
Review Markings:
Sheryl P. Walter
Declassified/Released
US Department of State
EO Systematic Review
20 Mar 2014
Markings: Sheryl P. Walter Declassified/Released US Department of State EO Systematic Review 20 Mar 2014